IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R. RAMACHANDRAN NAIR

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

LA. App. No. 199 of 2002(D)

LAR. 32/1994 of PRINCIPAL SUB COURT,KOLLAM
.....

APPELLANT/CLAIMANT:

K.P. GOPINATHAN PILLAI, VRINDAVANAM VEEDU, PULIYOORVANCHI THEKKUM MURI, KALLELIBHAGAM VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI. N. RAMACHANDRAN NAIR (VARINJAM)
SRI. T.R. ASWAS

RESPONDENT/RESPONDENT:

STATE OF KERALA REPRESENTED BY SPECIAL TAHSILDAR (LA), RAILWAYS NO.1., KOLLAM.

BY GOVERNMENT PLEADER SMT. K.R. DEEPA.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ.

L.A.A. NO. 199 OF 2002

Dated this the 23rd day of July, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the judgment and decree in L.A.R. No. 32/1994 on the file of Principal Sub Court, Kollam. Acquisition is for the purpose of railway expansion.

2. The Reference Court relied on Exhibit A2 judgment in L.A.R. No. 55/1994 that has become final in view of the judgment in L.A.A. 562/2001. The main contention of the appellant herein is that the property covered by the appeal is having more importance. The same should have been included in Category 2.

3. There is also a dispute with regard to the assessment of the damages. According to the appellant, in view of the evidence already available, the Reference Court should have appreciated the materials available on record and passed appropriate orders. Instead, the whole evidence has been rejected merely observing that there is no substantive evidence. We are of the view that the matter requires fresh consideration on the basis of the

evidence available on record with regard to the damages and with regard to the category.

Accordingly, we set aside the judgment and decree in L.A.R. No. 32/1994 on the file of Principal Sub Court, Kollam and remit the matter to the Reference Court for fresh consideration. Parties shall appear before the Reference Court on 10.09.2007. The Reference Court shall dispose of the matter within another one month. Since the matter has been remanded, the appellant shall be entitled to refund of the entire court fee.

KURIAN JOSEPH
JUDGE

T.R. RAMACHANDRAN NAIR
JUDGE

smp